

COMMITTEE ON LAND USE
(Standing Committee of Berkeley County Council)

Chairman: Mr. Phillip Farley, Council Member District No. 1

A meeting of the **COMMITTEE ON LAND USE**, Standing Committee of Berkeley County Council, was held on **Monday November 9, 2009**, in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina, at 6:03 p.m.

PRESENT: Chairman Phillip Farley, Council District No. 1; Committee Member Timothy J. Callanan, Council District No. 2; Committee Member Robert O. Call, Jr., Council District No. 3; Committee Member Cathy S. Davis, Council District No. 4; Committee Member Dennis L. Fish, Council District No. 5; Committee Member Jack H. Schurlknight, Council District No. 6; Committee Member Caldwell Pinckney, Jr., Council District No. 7; Committee Member Steve C. Davis, Council District No. 8; County Supervisor Daniel W. Davis, ex officio; Mr. Joshua Gruber, Assistant County Attorney; and Ms. Barbara B. Austin, Clerk of County Council.

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

During periods of discussion and/or presentations, minutes are typically condensed.

Chairman Farley called the meeting to order. Committee Member Pinckney gave the Invocation and Committee Member Cathy Davis led in the Pledge of Allegiance to the Flag of the United States of America.

Chairman Farley asked for approval of minutes for the Land Use meeting held on October 12, 2009.

It was moved by Committee Member C. Davis and seconded by Committee Member S. Davis to **approve** the minutes as presented. The motion passed by unanimous voice vote of the Committee.

A. Mr. James Sineath, 126 Hartin Boulevard, Summerville SC, Re: Planning and Zoning Administrator's decision to allow an access on Hartin Boulevard. (For information only)

Mr. James Sineath, residing at 126 Hartin Boulevard, Summerville, SC, addressed the Committee and voiced concerns regarding a proposed storage facility to be constructed at the corner of Hwy. 17A and Hartin Boulevard. The proposed ingress/egress is located on Hartin Boulevard. There will be considerable lighting, signage and parking concerns that will interfere with the residential area on Hartin Boulevard. The business address will be Hwy. 17A and the ingress/egress should be located on Hwy. 17A. The previous property owner was a mobile home sales lot that had a curb cut on Hartin Boulevard. The curb cut was approved in 1996 and

modifications to the road were not completed by the previous owner. At that time, Hwy. 17A was a two lane road and it was safer to move mobile homes using the curb cut on Hartin Boulevard. Hwy 17A is now a four lane road with a middle turning lane and should not pose a problem for vehicle access. There have been problems in the past that blocked Hartin Boulevard and prevented access for emergency vehicles. There is also concern regarding the usage of the storage units and the type of buffer used on the residential street. Mr. Sineath referenced a letter that Mr. Eric Greenway, Zoning Administrator sent to Will Conner of Conner Engineering. The letter states that Berkeley County currently has no ordinances that prevent the denial of site plan approval of a curb cut accessing Hartin Boulevard. The ingress/egress should be on Hwy. 17A. There are other storage facilities located on Hwy. 17A that use Hwy. 17A as an ingress/egress point. The letter further states that submitted traffic studies for a mini warehouse operation provides adequate information that a Hartin Boulevard access will not pose an unsafe traffic condition. The residents of Hartin Boulevard request a copy of the traffic study. Mr. Sineath requested information as to the procedure that would make MenStone a gated community.

Mr. Eric Greenway, Zoning Administrator, stated that Monster Self Storage went before the Board of Zoning Appeals, (BZA), seeking a variance on the building length. The Conditional Use provisions state that no mini warehouse building can be greater than 300 feet in length. The property owner also requested that the BZA deal with the curb cut issue. Mr. Greenway requested that the BZA defer action on the curb cut issue to allow the engineers and opportunity to develop an alternate plan. The property owner declined to defer the curb cut issue and the request for the building length variance was denied. Staff is concerned about the concerns of the residents, but there is also a property owner that wishes to develop his property. There has to be a legal reason for denial of the curb cut location. After many discussions with the residents, the property owners and the engineers, it is apparent that the only course is to heavily regulate the use of the curb cut. This property owner has built storage facilities throughout the region. There is a business plan and model. The property owner states that in order for the mini warehouse to safely operate, the curb cut would need to be on the depth of the property. He declined the request to put the curb cut on Hwy. 17A. The SCDOT preferred that the access be on Hartin Boulevard. They believed with the curb cut on Hwy. 17A there would be conflicts with the existing Myers Road interchange. Additional conditions have been placed on the Hartin Boulevard curb cut. A statement must be added to the Conditional Use application that states that no parking for this site can occur within the right-of-way of Hartin Boulevard. It will be stipulated that if parking occurs, the property owner will be fined \$1,087 per car. There must also be appropriate traffic control signage installed at the Hartin Boulevard access to limit left turn movement from the site. Based on the traffic study, there is no need for left hand movement from the site onto Hartin Boulevard. The turn movements from the curb cut would be to the right to access Hwy. 17A. A Traffic Impact Assessment must be provided that proves a single access is appropriate for the site. There is concern that the location of the curb cut in relation to Hwy. 17A and that it meets the distance requirements of the SCDOT design manual from the major road intersection. The traffic study calls for improvements to the Hwy. 17A and Hartin Boulevard intersection and states that the access for the curb cut meets the SCDOT design manual. The level of service at the intersection at peak hours of travel is no less than the "C" level of service for the operation of this site. The engineering report shows no queuing problem with Hartin Boulevard. Berkeley County currently has no ordinance or regulations to permit the

denial of the site plan approval. Curb cuts on county roads are issued encroachment permits by the Roads and Bridges Department. SCDOT grants encroachment permits for state roads. There is no basis to deny the curb cut on Hartin Boulevard. The curb cut was utilized previously for mobile home delivery and had more of an impact on the residents than the proposed use of the facility. Most of the operations of that facility were conducted on Hwy. 17A. The zoning ordinance provides that any party that disagrees with a decision of the Zoning Administrator can appeal to the Board of Zoning Appeals. The residents of Hartin Boulevard are welcome to appeal this decision. The permits for this site are being held for 30 days to allow for the appeal process.

Committee Member Schurlknight inquired as to the utilization of the curb cut on Hwy. 17A.

Mr. Greenway replied that the utilization of the Hwy. 17A curb cut would require a drastic redesign and a major change to the operational strategy that would impact the site security. The property owner and the engineer were requested to provide an alternative site operational characteristic with a Hwy. 17A curb cut. After reviewing this plan, it was believed that it would not be a safe environment. Vehicles could potentially block Hwy. 17A while waiting to enter the site.

Committee Member Schurlknight stated it would be to the property owner's advantage to have the Hartin Boulevard curb cut for the building layout.

Mr. Greenway stated the facility would not lose space with the Hartin Boulevard curb cut. The Hwy. 17A curb cut would create a security issue with the planned wall surrounding the property. The Hartin Boulevard would allow more interior movement on the site.

Committee Member Schurlknight stated the ingress/egress on Hartin Boulevard would definitely change the residential area. There would not be a big safety issue with having the curb cut on Hwy. 17A. The gate would have to be moved back so that vehicles would not block Hwy. 17A. There should be a solution that would appease the property owner and the residents.

Mr. Greenway stated the process was started in April and the approval letters are ready to be issued. There has been considerable discussion with the property owner and the engineers to attempt to resolve this issue with a Hwy. 17A access.

Committee Member C. Davis inquired if there is a method of appeal on the DOT's decision.

Mr. Greenway replied he was not aware of an appeal process for DOT. A state representative has been contacted regarding the DOT decision.

Committee Member S. Davis inquired as to the next step after a Board of Appeals decision.

Mr. Greenway replied that if the Board of Appeals agrees there has been a correct interpretation of the code, then the only recourse to appeal would be the Circuit Court within 30 days of the decision. If the Board of Appeals disagrees with his decision, then the site would have to be redrawn or the property owner would have to appeal the decision to Circuit Court.

Committee Member S. Davis expressed support for the Hwy. 17A access but at this point in time, Council's hands are tied. There is no ordinance that would give the residents a favorable outcome.

Committee Member Callanan inquired if the new Overlay District would affect this property.

Mr. Greenway responded that the property owner has been encouraged to comply with the new overlay ordinance prior to its adoption and they have agreed.

Committee Member Fish inquired as to the denial of the building length variance.

Mr. Greenway replied that originally the building was going to be continuous around the perimeter with a firewalls to get the building code requirement for separation. The BZA denied the variance and the site had to be redesigned. The background of this proposed developer has been researched and has a reputation for the best sites in the area. It is not allowed to have offices in the facility or knowingly reside in units.

Ms. Marianne Jensen residing at 213 Hartin Boulevard, stated that Hartin Boulevard is not a through street. There are 20 houses on a horseshoe shaped street with two entrances. There is a two story storage business located ¼ mile on Hwy. 17A with the only entrance located on the four lane Hwy. 17A with a median turning lane. There is also a new storage facility located on Hwy. 17A past Hwy. 176. This facility also has the only entrance on Hwy. 17A. The entrance that is already on this rectangular shaped property is wider than the entrance on Hartin Boulevard and will not interfere with the Myers Road intersection.

Committee Member S. Davis inquired as to Mr. Greenway's decision if the ingress/egress was proposed on Hwy. 17A.

Mr. Greenway replied that the site would allow for a Hwy. 17A curb cut. The property owner wants the curb cut on Hartin Boulevard.

Committee Member S. Davis stated that the representatives in Columbia need to be contacted.

Mr. Greenway stated the residents have the option to appeal to the BZA.

Mr. Sineath stated the building could be relocated 180 degrees on the site. The property owner does not want to turn the building because of the cost of the sewer pipe. He wants to save money by having the access on Hartin Boulevard.

Chairman Farley thanked Mr. Sineath for the information. No action was required.

B. Mr. Stephen R. Ulery, 251 Dunning Road, Summerville, Re: Crowfield Little League Baseball Fields, College Park Road, Goose Creek, SC.

Mr. Ulery stated the baseball fields on College Park support 250 children. The taxes in 2002 for the baseball fields were \$354. In 2008, the taxes were \$5,136. Since 2003, nearly \$25,000 have been paid in taxes to play baseball. In the 1994 agreement with Mr. Steve Vaughn to utilize the fields, the baseball league agreed to pay the taxes. It is requested that the taxes be lowered on the baseball fields. After speaking with Mr. Wilson Baggett, Tax Assessor, it was learned that the property owner, Mr. Vaughn, would have to appeal the taxes. Fundraisers have to be conducted every weekend to pay the taxes.

Committee Member Callanan asked Mr. Baggett how the taxes could be lowered legally.

Mr. Baggett replied that it is beyond the County's control to reduce the property taxes. Mr. Vaughn is the legal owner and the baseball league has no legal right to the property and cannot appeal the value. Mr. Vaughn was sent a tax notice and did not appeal for 2009. If Mr. Ulery had a long term lease to encumber the property to a point where the value would be reduced, then the taxes could be lowered.

Committee Member Callanan stated the time for appeal has expired for this year and the property increased in value.

Mr. Baggett stated the property screens indicate there are power lines located on the property. The unit value is \$1,500/acre. There are two acres designated as Special Use. The remaining 12.12 acres is depreciated by 50% because of access issues. Typically the property could be worth over \$100,000/acre and the taxes would be considerably higher. The property is restricted and has power line right-of-ways and has been devalued.

Committee Member S. Davis expressed support for Little League Baseball and stated the landlord is already paying lower taxes because of the operation of the Little League Baseball. The value of baseball is because it builds character and sportsmanship. There is a lack of vision with Berkeley County Government because there is no county-wide recreation. This puts the County in a position where there is no redress. Kershaw County passed a county-wide recreation ordinance for Little League Baseball, soccer, etc. The contract states that the landlord, Mr. Vaughn, agrees to pay the taxes on said property in the amount as assessed by Berkeley County for the tax year 1993 thru the duration of the lease.

Mr. Ulery stated that children would have to beg for the funds to pay the taxes in order to play baseball. There is not another baseball field in the area for 250 children.

Committee Member Call inquired if the use of the property affects the value.

Mr. Baggett stated the property was previously zoned agricultural use. When the agricultural use was changed, the taxes grew with subsequent reassessments.

Committee Member Call inquired if the baseball team no longer used the property, would the taxes decrease.

Mr. Baggett replied the taxes would not decrease. Mr. Vaughn would have to make a zoning change to the property.

Committee Member Call stated the lease is very generous and has been in effect for 15 years and is nominal. Mr. Vaughn is donating the property and is requesting that the tenant pay the taxes for the use.

Mr. Baggett replied that the lease is no longer valid and he cannot change County law to reduce the taxes.

Committee Member Call stated the children utilizing this ball field don't live in the Goose Creek Recreation area and if Mr. Vaughn closed access to the property, another field would not be available.

Committee C. Davis inquired if anything could be changed if Mr. Vaughn contacted the Assessor.

Mr. Baggett stated that Mr. Vaughn could change the zoning. The tract is zoned as commercial. There is no legal action between Mr. Vaughn and the Little League Baseball team that limits the use of the property. The property would have to be appraised as Special Use. Comparables for Special Use such as churches and parks typically would have a higher value. This property has power lines and is devalued by 50%.

Committee Member Call stated that Mr. Vaughn is under the impression that if the ball field is closed, the taxes would be reduced.

Mr. Baggett stated the property is zoned commercial and it would continue to be valued commercial. If the property was encumbered, it would limit the value. The County does not have the authority to claim that the baseball field is exempt.

Committee Member Call inquired that if Mr. Vaughn had a lease with the Little League and it could not be sold for a length of time, would the property value be affected.

Mr. Baggett replied it would encumber the property and deter buyers and it would affect the value.

Committee Member Callanan inquired if the property was rezoned from agricultural to commercial.

Mr. Baggett replied that the property was always commercial, but the use had changed from agricultural to commercial. The baseball fields changed the use from agricultural use to a recreational use, the agricultural use was removed.

Committee Member Callanan inquired as to who paid the taxes on the property.

Mr. Ulery replied that the baseball teams pay Mr. Vaughn the taxes, who in turn pays the County.

Committee Member Callanan inquired if 100% of the property has to be used for agricultural in order for it to be designated agricultural.

Mr. Baggett replied that if more than 50% is used agricultural, then it is designated agricultural. Mr. Vaughn would have to appeal and then the power line issue could be re-examined.

Committee Member S. Davis stated that Mr. Ulery did not have standing to accomplish a tax decrease. Mr. Vaughn would have to appeal the taxes. County Council and Mr. Baggett have already made some concessions on the taxes.

Committee Member Callanan stated that the deadline has passed to make any tax changes and further stated that the School Board receives 70% of the taxes paid.

Committee Member Call stated that Mr. Vaughn is aware that he would have to appeal to lower the taxes on the property. Mr. Ulery has no standing to appeal the taxes on Mr. Vaughn's property. There are many children that would not have a field to play ball if the taxes are not paid. They cannot play on the Recreation Commission fields unless the teams are under the auspices of the Goose Creek Recreation Commission.

Chairman Farley thanked Mr. Ulery. No action was taken.

C. Consideration prior to First Reading of the following:

1. Request by Artamus Nichols for Nicholas Equipment, 2192 Highway 52, Moncks Corner **TMS #181-00-02-055, - 056** (3.33 acres), **from GC, General Commercial District to LI, Light Industrial District.** Council District No. 8.

[Staff recommended approval]

[Planning Commission recommended approval]

It was moved by Committee Member S. Davis and seconded by Committee Member Schurlknight to **approve** prior to **First Reading**, the Request by Artamus Nichols. The motion passed by unanimous voice vote of the Committee.

HELD IN COMMITTEE

2. **Request by Shellie Overton** for the Heirs of Jerry Pringle, 1158 Old Gilliard Road, Ridgeville, TMS #175-00-01-048 (0.45 +/- acres), **from F-1, Agricultural District to RNC, Rural and Neighborhood Commercial District.** Council District No. 7.

[Staff recommended denial]

[Planning Commission recommended denial]

Chairman Farley stated the Request by Shellie Overton has been withdrawn.

Mr. Josh Gruber, Assistant County Attorney, stated that the request to withdraw would need to be in writing for record purposes.

Committee Member Pinckney stated it would be submitted in writing.

D. **Review prior to Second Reading** of the following:

1. **Bill No. 09-45**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **John & Miriam Mitchum** located 2,000 +/- L.F. from the intersection of N. Highway 52 and 17A on North Highway 17A, Moncks Corner, TMS #123-00-02-030 (3.0 acres), **from GC, General Commercial District to F-1, Agricultural District.** Council District No. 8.

It was moved by Committee Member S. Davis and seconded by Committee Member Fish to **approve** prior to **Second Reading, Bill No. 09-45.** The motion passed by unanimous voice vote of the Committee.

2. **Bill No. 09-46**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Caroline Gethers** for Heirs of Caroline Gethers, 307 N. Live Oak Drive, Moncks Corner, TMS #142-04-02-048 (1.65 acres) **from GC, General Commercial District to F-1, Agricultural District.** Council District No. 8.

It was moved by Committee Member S. Davis and seconded by Committee Member Schurlknight to **approve** prior to **Second Reading, Bill No. 09-46.** The motion passed by unanimous voice vote of the Committee.

3. **Bill No. 09-47**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **Norman Sanders** for First Citizens Bank & Trust Co, Inc., 909 Black Oak Road, Bonneau, Portion of TMS #068-04-03-021 (0.1864 acre) **from R-2, Manufactured Residential District to GC, General Commercial District.** Council District No. 6.

It was moved by Committee Member Schurlknight and seconded by Committee Member S. Davis to **approve** prior to **Second Reading, Bill No. 09-47.** The motion passed by unanimous voice vote of the Committee.

4. Bill No. 09-50, an ordinance to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, Re: **County Council on behalf of the heirs of Mitchell Hardy**, Sibling Lane, Huger, TMS #257-00-00-01, (approximately 11 acres) **from R1-R, Rural Single Family Residential District to F-1, Agricultural District**. Council District No. 8.

[Staff recommended approval]

[Planning Commission recommended approval]

It was moved by Committee Member S. Davis and seconded by Committee Member C. Davis to **approve** prior to **Second Reading, Bill No. 09-50**. The motion passed by unanimous voice vote of the Committee.

E. Review prior to Third Reading of the following:

1. Bill No. 09-41, an ordinance to amend and clarify certain sections of Ordinance Number 01-8-35, adopted August 27, 2001, Zoning and Development Standards Ordinance, “**Berkeley County Zoning Ordinance**” and amending Ordinances Numbered 02-08-33, 02-12-58, 04-11-68, 05-03-08, 05-08-58, 06-09-63, 06-12-92, and 07-07-43, in regard to the proposed creation of an **Arterial Roads Overlay District**.

It was moved by Committee Member Schurlknight and seconded by Committee Member S. Davis to **approve** prior to **Third Reading, Bill No. 09-41**. The motion passed by unanimous voice vote of the Committee.

It was moved by Committee Member S. Davis and seconded by Committee Member C. Davis to **adjourn** the Committee on Land Use meeting. The motion passed by unanimous voice vote of the Committee.

The meeting ended at 7:15 pm.

December 14, 2009

Date Approved